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**COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**QUORUM NECESSARY TO CONDUCT BUSINESS:**

**2.    Compliance Requirements:**

- A majority of the members of the council constitute a quorum for the transaction of business. (MCA 7-5-4121)
  
- In cities having a mayor and two council members, the mayor and one council member or two council members constitute a quorum and the affirmative vote of the mayor and one council member or the affirmative vote of two council members is necessary to adopt or reject any motion, resolution, or ordinance or pass any measure unless a greater number is provided for in this part. (MCA 7-3-4221)
  
- In cities having a mayor and four council members, the mayor and two council members or three council members constitute a quorum and the affirmative vote of the mayor and two council members or the affirmative vote of three council members is necessary to adopt or reject any motion, resolution, or ordinance or pass any measure unless a greater number is provided for in this part. (MCA 7-3-4221)
  
- A town with a weak-mayor form of municipal government does not have authority to adopt by ordinance the quorum provisions of MCA 7-3-4221. Those provisions would conflict with MCA 7-5-4121, which states that a majority of the members of the town council constitute a quorum and does not include the mayor as a member of the town council for the determination. (AGO # 20, Vol. 47).

**Suggested Audit Procedure:**

- Review minutes of the meetings to verify that a quorum was present at each regular and special meeting.

**SIGNATURES REQUIRED:**

**3.    Compliance Requirement:**

- The minutes of all meetings of the city or town council or commission must be signed by the mayor and the city or town clerk. (MCA 7-5-4102(2), 7-4-4501(1), and 7-4-4511)

**Suggested Audit Procedure:**

- Review selected minutes of the meetings of the city or town council or commission to determine if they are signed by the individuals described above.

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**COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**REQUIRED ELEMENTS:**

**4.    Compliance Requirements:**

- The minutes must record all orders and decisions made by the city or town council or commission, and the substance of all matters proposed, discussed, or decided. (MCA 2-3-212)
  
- The minutes should include the following types of information (Various items listed below must be approved by resolution. MCA 7-5-121 requires that all resolutions of the governing body of a city or town must be entered in the minutes.):
  - a. date, time, and place of meeting; (MCA 2-3-212)
  - b. a list of the individual members of the public body, agency, or organization in attendance; (MCA 2-3-212)
  - c. calls for bid, advertisements and accepting bids; (MCA 7-5-4302)
  - d. contracts or loans approved; (MCA 2-3-212)
  - e. setting of salaries; (MCA 7-4-4201)
  - f. reports to the council; and (MCA 2-3-212)
  - g. cancellation of warrants and checks; (MCA 7-6-4303(2))
  - h. approval of investments; (MCA 2-3-212 and 7-6-201(4))
  - i. acceptance and approval of pledged securities; (MCA 7-6-207(2))
  - j. cash or budget transfers; (MCA 7-6-4006 & 7-6-4031)
  - k. appropriation of state and federal money; (MCA 7-6-4006)
  - l. sales of real or personal property; (MCA 7-8-4201)
  - m. transferring property between governmental entities; (MCA 7-8-101)
  - n. adoption of budget and setting of tax levies; (MCA 7-6-4030 and 7-6-4035)
  - o. emergency budget appropriations; (MCA 7-6-4032)
  - p. setting rates of interest on registered warrants; (MCA 7-6-4501)
  - q. claim and warrant approval; (MCA 7-6-4301 and 4302)
  - r. close inactive accounts; (MCA 7-6-614)
  - s. interlocal agreements between public agencies, which must be authorized and approved by the governing body; (MCA 7-11-104)
  - t. order for consolidation of offices; (MCA 7-4-4106)
  - u. roads/alleys opened or closed, established, constructed and changed; (MCA 7-14-4101 and 7-14-4114)
  - v. form and content of records to be keep by a private entity, if the city or town has the authority to require a private entity to keep records; (MCA 7-5-140)
  - w. leases entered into to operate regional detention facilities. (MCA 53-30-511)
  - x. resolution of annexation;. (MCA 7-2-4606)
  - y. Exemptions from bidding or advertising requirements for certain contracts when an emergency caused by fire, flood, explosion, storm, earthquake, riot, insurrection, or other similar emergency has occurred. (MCA 7-5-4303)

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**COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**REQUIRED ELEMENTS - continued:**

**4.    Compliance Requirements - continued:**

- z.    the creation of a public library (MCA 22-1-303)

(**Note:** The above list is not all-inclusive. We have attempted to identify as many as possible of those items that reference minute entry in State law. The main compliance requirement, as noted above and contained in MCA 2-3-212, is that the minutes must contain the substance of all matters proposed, discussed, or decided, without exception.)

**Suggested Audit Procedures:**

- Review the minutes to determine if they appear to contain the substance of all matters proposed, discussed or decided.
- During the course of the audit, the auditor should watch for evidence of transactions and other activities that should have been recorded in the minutes and determine if they were recorded. If they do not appear in the minutes, inquire as to what action was taken.

**VOTES OF INDIVIDUAL MEMBERS:**

**5.    Compliance Requirement:**

- The minutes of the meetings of the city or town council or commission must include a record of the members' votes on the final passage of any ordinance, bylaw, or resolution or the making of any contract, or on the appointment or election of any officer. (MCA 7-5-4121 and 2-3-212)

**Suggested Audit Procedure:**

- Review the minutes to determine if the votes of the members are recorded in the minutes, as required by the above statutes.

**PUBLIC MEETINGS:**

**6.    Compliance Requirements:**

- All meetings of governmental bodies, boards, bureaus, commissions or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds must be open to the public. (MCA 2-3-203) (**Note:** All meetings of the council, whether regular or special, at which any person not a city officer is admitted shall be open to the public. (MCA 7-3-4220))

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**COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:**

**PUBLIC MEETINGS - continued:**

**6.   Compliance Requirements - continued:**

- Meetings may be closed for the following reasons: (MCA 2-3-201 through 2-3-203; AGO #61, Vol. 42; and AGO #38, Vol. 41)
  1. to discuss a matter of individual privacy, if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure; (**Note:** The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.)
 

OR
  2. to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency. A meeting may not be closed if the only parties are public bodies or associations.
- Minutes of the open meetings must be kept and shall be available for inspection and copying by the public. (MCA 2-3-212 and 2-6-102)

**Suggested Audit Procedures:**

- Based on review of the minutes, determine if all meetings were open to the public. If the presiding officer closed a meeting to the public, determine that the minutes clearly indicate the reason for the closure and that the reason was an allowable one, as described above.
- Based on observation and inquiry, determine that minutes were kept of all public meetings and that those minutes are available for inspection and copying by the public.